

S. 362, introduced by Senator INOUE, will help address these problems. This legislation requires the Administrator of the National Oceanic and Atmospheric Administration to map debris fields, to assess the impact of this debris on the living marine resources and navigational safety, and to develop strategies to prevent and remove marine debris from the navigable waters of the United States and our 200-mile exclusive economic zone.

S. 362 also requires the Commandant of the Coast Guard to take actions to reduce violations of and improve implementation of MARPOL Annex V and the Act to Prevent Pollution from Ships. Under the bill, the Coast Guard will also have to develop and implement a plan to improve ship-board waste management and to make sure that U.S. ports and terminals maintain and monitor the adequacy of receptacles for the disposal of plastics and other garbage that are brought into our ports each year on ships.

The oceans are our lifelines. We cannot let human activity kill them. S. 362 will help to prevent thousands of tons of debris from entering the ocean each year from vessels.

I urge my colleagues to join me in supporting S. 362, the Marine Debris Research, Prevention, and Reduction Act.

Mr. POMBO. Mr. Speaker, I rise in support of S. 362, the Marine Debris Research, Prevention and Reduction Act.

S. 362 is an important piece of environmental legislation. People in the U.S. and world-wide generate a lot of trash. While every effort is made to ensure the trash is sent to the appropriate place, improperly used trash receptacles, storm runoff, and outright littering send trash into rivers and oceans daily. All of this loose trash becomes marine debris. In return this marine debris has become a pervasive threat in our world's oceans adversely harming marine animals and their habitat.

S. 362 follows up on recommendations made by the U.S. Commission on Ocean Policy which called for action to reduce marine debris. Most importantly it would help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety. It would re-establish the Interagency Marine Debris Coordinating Committee to help ensure a coordinated government response across Federal agencies. In addition, it would also develop a Federal information clearing house to enable researchers to study the sources, scale and impact of marine debris more efficiently.

S. 362 is an important step in reducing, and hopefully some day eliminating, marine debris from our ocean environment. S. 362 is a good bill and should receive the support of Members and pass the House today.

Mr. GILCREST. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. GILCREST) that the House suspend the rules and pass the Senate bill, S. 362, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

STEVENS-INOUE INTERNATIONAL FISHERIES MONITORING AND COMPLIANCE LEGACY ACT OF 2006

Mr. PEARCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5946) to amend Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.

TITLE I—INTERNATIONAL FISHERIES MONITORING AND COMPLIANCE

Sec. 101. International fisheries monitoring and compliance.

Sec. 102. Finding with respect to illegal, unreported, and unregulated fishing.

Sec. 103. Action to end illegal, unreported, or unregulated fishing and reduce bycatch of protected marine species.

Sec. 104. Monitoring of Pacific Insular Area fisheries.

Sec. 105. Reauthorization of Atlantic Tunas Convention Act.

Sec. 106. International overfishing and domestic equity.

Sec. 107. United States catch history.

Sec. 108. Secretarial representative for international fisheries.

TITLE II—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

Sec. 201. Short title.

Sec. 202. Definitions.

Sec. 203. Appointment of United States Commissioners.

Sec. 204. Authority and responsibility of the Secretary of State.

Sec. 205. Rulemaking authority of the Secretary of Commerce.

Sec. 206. Enforcement.

Sec. 207. Prohibited acts.

Sec. 208. Cooperation in carrying out Convention.

Sec. 209. Territorial participation.

Sec. 210. Exclusive Economic Zone notification.

Sec. 211. Authorization of appropriations.

TITLE III—PACIFIC WHITING

Sec. 301. Short title.

Sec. 302. Definitions.

Sec. 303. United States representation on joint management committee.

Sec. 304. United States representation on the scientific review group.

Sec. 305. United States representation on joint technical committee.

Sec. 306. United States representation on advisory Panel.

Sec. 307. Responsibilities of the Secretary.

Sec. 308. Rulemaking.

Sec. 309. Administrative matters.

Sec. 310. Enforcement.

Sec. 311. Authorization of appropriations.

SEC. 2. AMENDMENT OF MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

TITLE I—INTERNATIONAL FISHERIES MONITORING AND COMPLIANCE

SEC. 101. INTERNATIONAL FISHERIES MONITORING AND COMPLIANCE.

(a) IN GENERAL.—Title II (16 U.S.C. 1821 et seq.) is amended by adding at the end the following:

“SEC. 207. INTERNATIONAL FISHERIES MONITORING AND COMPLIANCE.

“(a) IN GENERAL.—The Secretary may undertake activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and to implement the requirements of this title.

“(b) SPECIFIC AUTHORITIES.—In carrying out subsection (a), the Secretary may—

“(1) share information on harvesting and processing capacity and illegal, unreported and unregulated fishing on the high seas, in areas covered by international fishery management agreements, and by vessels of other nations within the United States exclusive economic zone, with relevant law enforcement organizations of foreign nations and relevant international organizations;

“(2) further develop real time information sharing capabilities, particularly on harvesting and processing capacity and illegal, unreported and unregulated fishing;

“(3) participate in global and regional efforts to build an international network for monitoring, control, and surveillance of high seas fishing and fishing under regional or global agreements;

“(4) support efforts to create an international registry or database of fishing vessels, including by building on or enhancing registries developed by international fishery management organizations;

“(5) enhance enforcement capabilities through the application of commercial or governmental remote sensing technology to locate or identify vessels engaged in illegal, unreported, or unregulated fishing on the high seas, including encroachments into the exclusive economic zone by fishing vessels of other nations;

“(6) provide technical or other assistance to developing countries to improve their monitoring, control, and surveillance capabilities; and

“(7) support coordinated international efforts to ensure that all large-scale fishing vessels operating on the high seas are required by their flag State to be fitted with vessel monitoring systems no later than December 31, 2008, or earlier if so decided by the relevant flag State or any relevant international fishery management organization.”.

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 206 the following:

“Sec. 207. International fisheries monitoring and compliance.”.

SEC. 102. FINDING WITH RESPECT TO ILLEGAL, UNREPORTED, AND UNREGULATED FISHING.

Section 2(a) (16 U.S.C. 1801(a)) is further amended by adding at the end the following:

“(11) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices

which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.”

SEC. 103. ACTION TO END ILLEGAL, UNREPORTED, OR UNREGULATED FISHING AND REDUCE BYCATCH OF PROTECTED MARINE SPECIES.

(a) IN GENERAL.—Title VI of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d et seq.), is amended by adding at the end the following:

“SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.

“The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after the date of enactment of the Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006, and every 2 years thereafter, a report that includes—

“(1) the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinction by any international or other authority charged with management or conservation of living marine resources;

“(2) a list of nations whose vessels have been identified under sections 609(a) or 610(a), including the specific offending activities and any subsequent actions taken pursuant to section 609 or 610;

“(3) a description of efforts taken by nations on those lists to take appropriate corrective action consistent with sections 609 and 610, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

“(4) progress at the international level, consistent with section 608, to strengthen the efforts of international fishery management organizations to end illegal, unreported, or unregulated fishing; and

“(5) steps taken by the Secretary at the international level to seek adoption of international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

“SEC. 608. ACTION TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.

“The Secretary, in consultation with the Secretary of State, and in cooperation with relevant fishery management councils and any relevant advisory committees, shall take actions to improve the effectiveness of international fishery management organizations in conserving and managing fish stocks under their jurisdiction. These actions shall include—

“(1) urging international fishery management organizations to which the United States is a member—

“(A) to incorporate multilateral market-related measures against member or non-member governments whose vessels engage in illegal, unreported, or unregulated fishing;

“(B) to seek adoption of lists that identify fishing vessels and vessel owners engaged in illegal, unreported, or unregulated fishing that can be shared among all members and other international fishery management organizations;

“(C) to seek international adoption of a centralized vessel monitoring system in order to monitor and document capacity in fleets of all nations involved in fishing in

areas under the an international fishery management organization’s jurisdiction;

“(D) to increase use of observers and technologies needed to monitor compliance with conservation and management measures established by the organization, including vessel monitoring systems and automatic identification systems; and

“(E) to seek adoption of stronger port state controls in all nations, particularly those nations in whose ports vessels engaged in illegal, unreported, or unregulated fishing land or transship fish;

“(2) urging international fishery management organizations to which the United States is a member, as well as all members of those organizations, to adopt and expand the use of market-related measures to combat illegal, unreported, or unregulated fishing, including—

“(A) import prohibitions, landing restrictions, or other market-based measures needed to enforce compliance with international fishery management organization measures, such as quotas and catch limits;

“(B) import restrictions or other market-based measures to prevent the trade or importation of fish caught by vessels identified multilaterally as engaging in illegal, unreported, or unregulated fishing; and

“(C) catch documentation and certification schemes to improve tracking and identification of catch of vessels engaged in illegal, unreported, or unregulated fishing, including advance transmission of catch documents to ports of entry; and

“(3) urging other nations at the appropriate bilateral, regional, and international levels to take all steps necessary, consistent with international law, to adopt measures and policies that will prevent fish or other living marine resources harvested by vessels engaged in illegal, unreported, or unregulated fishing from being traded or imported into their nation or territories.

“SEC. 609. ILLEGAL, UNREPORTED, OR UNREGULATED FISHING.

“(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if fishing vessels of that nation are engaged, or have been engaged at any point during the preceding two years in illegal, unreported, or unregulated fishing; and—

“(1) the relevant international fishery management organization has failed to implement effective measures to end the illegal unreported, or unregulated fishing activity by vessels of that nation or the nation is not a party to, or does not maintain cooperating status with, such organization; or

“(2) where no international fishery management organization exists with a mandate to regulate the fishing activity in question.

“(b) NOTIFICATION.—An identification under subsection (a) or section 610(a) is deemed to be an identification under section 101(b)(1)(A) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)(1)(A)), and the Secretary shall notify the President and that nation of such identification.

“(c) CONSULTATION.—No later than 60 days after submitting a report to Congress under section 607, the Secretary, acting through the Secretary of State, shall—

“(1) notify nations listed in the report of the requirements of this section;

“(2) initiate consultations for the purpose of encouraging such nations to take the appropriate corrective action with respect to the offending activities of their fishing vessels identified in the report; and

“(3) notify any relevant international fishery management organization of the actions taken by the United States under this section.

“(d) IUU CERTIFICATION PROCEDURE.—

“(1) CERTIFICATION.—The Secretary shall establish a procedure, consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, and including notice and an opportunity for comment by the governments of any nation listed by the Secretary under subsection (a), for determining if that government has taken appropriate corrective action with respect to the offending activities of its fishing vessels identified in the report under section 607. The Secretary shall determine, on the basis of the procedure, and certify to the Congress no later than 90 days after the date on which the Secretary promulgates a final rule containing the procedure, and biennially thereafter in the report under section 607—

“(A) whether the government of each nation identified under subsection (b) has provided documentary evidence that it has taken corrective action with respect to the offending activities of its fishing vessels identified in the report; or

“(B) whether the relevant international fishery management organization has implemented measures that are effective in ending the illegal, unreported, or unregulated fishing activity by vessels of that nation.

“(2) ALTERNATIVE PROCEDURE.—The Secretary may establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (1) if the Secretary determines that—

“(A) the vessel has not engaged in illegal, unreported, or unregulated fishing under an international fishery management agreement to which the United States is a party; or

“(B) the vessel is not identified by an international fishery management organization as participating in illegal, unreported, or unregulated fishing activities.

“(3) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) (except to the extent that such provisions apply to sport fishing equipment or fish or products thereof not managed under the relevant international fishery agreement (or, where there is no such agreement, not caught by the vessels engaged in illegal, unreported, or unregulated fishing)) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

“(e) ILLEGAL, UNREPORTED, OR UNREGULATED FISHING DEFINED.—

“(1) IN GENERAL.—In this Act the term ‘illegal, unreported, or unregulated fishing’ has the meaning established under paragraph (2).

“(2) SECRETARY TO DEFINE TERM WITHIN LEGISLATIVE GUIDELINES.—Within 3 months after the date of enactment of the Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006, the Secretary shall publish a definition of the term ‘illegal, unreported, or unregulated fishing’ for purposes of this Act.

“(3) GUIDELINES.—The Secretary shall include in the definition, at a minimum—

“(A) fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including catch limits or quotas, capacity restrictions, and bycatch reduction requirements;

“(B) overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; and

“(C) fishing activity that has adverse impacts on seamounts, hydrothermal vents, and cold water corals located beyond national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

“SEC. 610. EQUIVALENT CONSERVATION MEASURES.

“(a) IDENTIFICATION.—The Secretary shall identify, and list in the report under section 607, a nation if—

“(1) fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices—

“(A) beyond the exclusive economic zone of any nation that result in bycatch of a protected living marine resource; or

“(B) beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States;

“(2) the relevant international organization for the conservation and protection of such resources or the relevant international or regional fishery organization has failed to implement effective measures to end or reduce such bycatch, or the nation is not a party to, or does not maintain cooperating status with, such organization; and

“(3) the nation has not adopted a regulatory program governing such fishing practices designed to end or reduce such bycatch that is comparable to that of the United States, taking into account different conditions.

“(b) CONSULTATION AND NEGOTIATION.—The Secretary, acting through the Secretary of State, shall—

“(1) notify, as soon as possible, other nations whose vessels engage in fishing activities or practices described in subsection (a), about the provisions of this section and this Act;

“(2) initiate discussions as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, fishing activities or practices described in subsection (a), for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species;

“(3) seek agreements calling for international restrictions on fishing activities or practices described in subsection (a) through the United Nations, the Food and Agriculture Organization's Committee on Fisheries, and appropriate international fishery management bodies; and

“(4) initiate the amendment of any existing international treaty for the protection and conservation of such species to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section.

“(c) CONSERVATION CERTIFICATION PROCEDURE.—

“(1) CERTIFICATION.—The Secretary shall determine, on the basis of a procedure consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code, and including notice and an opportunity for comment by the governments of any nation identified by the Secretary under subsection (a). The Secretary shall certify to the Congress by January 31, 2007, and biennially thereafter whether the government of each harvesting nation—

“(A) has provided documentary evidence of the adoption of a regulatory program governing the conservation of the protected living marine resource that is comparable to that of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

“(B) has established a management plan containing requirements that will assist in gathering species-specific data to support international stock assessments and conservation enforcement efforts for protected living marine resources.

“(2) ALTERNATIVE PROCEDURE.—The Secretary shall establish a procedure for certification, on a shipment-by-shipment, shipper-by-shipper, or other basis of fish or fish products from a vessel of a harvesting nation not certified under paragraph (1) if the Secretary determines that such imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

“(A) are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fishing, includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

“(B) include the gathering of species specific data that can be used to support international and regional stock assessments and conservation efforts for protected living marine resources.

“(3) EFFECT OF CERTIFICATION.—The provisions of section 101(a) and section 101(b)(3) and (4) of this Act (16 U.S.C. 1826a(a), (b)(3), and (b)(4)) (except to the extent that such provisions apply to sport fishing equipment or fish or fish products not caught by the vessels engaged in illegal, unreported, or unregulated fishing) shall apply to any nation identified under subsection (a) that has not been certified by the Secretary under this subsection, or for which the Secretary has issued a negative certification under this subsection, but shall not apply to any nation identified under subsection (a) for which the Secretary has issued a positive certification under this subsection.

“(d) INTERNATIONAL COOPERATION AND ASSISTANCE.—To the greatest extent possible consistent with existing authority and the availability of funds, the Secretary shall—

“(1) provide appropriate assistance to nations identified by the Secretary under subsection (a) and international organizations of which those nations are members to assist those nations in qualifying for certification under subsection (c);

“(2) undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques, with those nations or organizations;

“(3) encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for certification under subsection (c); and

“(4) provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans.

“(e) PROTECTED LIVING MARINE RESOURCE DEFINED.—In this section the term ‘protected living marine resource’—

“(1) means non-target fish, sea turtles, or marine mammals, that are protected under United States law or international agreement, including the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, provisions enacted by the Shark Finning Prohibition Act, and the Convention on International Trade in Endangered Species of Wild Flora and Fauna; but

“(2) does not include species, except sharks, managed under the Magnuson-Stevens Fishery Conservation and Management Act, the Atlantic Tunas Convention Act, or any international fishery management agreement.”.

(b) CONFORMING AMENDMENTS.—

(1) DENIAL OF PORT PRIVILEGES.—Section 101(b) of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a(b)) is amended by inserting “or illegal, unreported, or unregulated fishing” after “fishing” in paragraph (1)(A)(i), paragraph (1)(B), paragraph (2), and paragraph (4)(A)(i).

(2) DURATION OF DENIAL.—Section 102 of the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826b) is amended by inserting “or illegal, unreported, or unregulated fishing” after “fishing”.

SEC. 104. MONITORING OF PACIFIC INSULAR AREA FISHERIES.

(a) WAIVER AUTHORITY.—Section 201(h)(2)(B) (16 U.S.C. 1821(h)(2)(B)) is amended by striking “that is at least equal in effectiveness to the program established by the Secretary,” and inserting “or other monitoring program that the Secretary, in consultation with the Western Pacific Management Council, determines is adequate to monitor harvest, bycatch, and compliance with the laws of the United States by vessels fishing under the agreement;”.

(b) MARINE CONSERVATION PLANS.—Section 204(e)(4)(A)(i) (16 U.S.C. 1824(e)(4)(A)(i)) is amended to read as follows:

“(i) Pacific Insular Area observer programs, or other monitoring programs, that the Secretary determines are adequate to monitor the harvest, bycatch, and compliance with the laws of the United States by foreign fishing vessels that fish under Pacific Insular Area fishing agreements;”.

SEC. 105. REAUTHORIZATION OF ATLANTIC TUNAS CONVENTION ACT.

(a) IN GENERAL.—Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention \$5,495,000 for each of the fiscal years 2007 through 2012.

“(b) ALLOCATION.—Of the amounts made available under subsection (a) for each fiscal year—

“(1) \$150,000 are authorized for the advisory committee established under section 4 of this Act and the species working groups established under section 4A of this Act; and

“(2) \$4,240,000 are authorized for research activities under this Act and section 3 of Public Law 96-339 (16 U.S.C. 971i), of which \$3,000,000 shall be for the cooperative research program under section 3(b)(2)(H) of that section (16 U.S.C. 971i(b)(2)(H)).”.

(b) ATLANTIC BILLFISH COOPERATIVE RESEARCH PROGRAM.—Section 3(b)(2) of Public Law 96-339 (16 U.S.C. 971i(b)(2)) is amended—

(1) by striking “and” after the semicolon in subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I); and

(3) by inserting after subparagraph (G) the following:

“(H) include a cooperative research program on Atlantic billfish based on the Southeast Fisheries Science Center Atlantic Billfish Research Plan of 2002; and”.

SEC. 106. INTERNATIONAL OVERFISHING AND DOMESTIC EQUITY.

(a) INTERNATIONAL OVERFISHING.—Section 304 (16 U.S.C. 1854) is amended by adding at the end thereof the following:

“(i) INTERNATIONAL OVERFISHING.—The provisions of this subsection shall apply in lieu

of subsection (e) to a fishery that the Secretary determines is overfished or approaching a condition of being overfished due to excessive international fishing pressure, and for which there are no management measures to end overfishing under an international agreement to which the United States is a party. For such fisheries—

“(1) the Secretary, in cooperation with the Secretary of State, immediately take appropriate action at the international level to end the overfishing; and

“(2) within 1 year after the Secretary’s determination, the appropriate Council, or Secretary, for fisheries under section 302(a)(3) shall—

“(A) develop recommendations for domestic regulations to address the relative impact of fishing vessels of the United States on the stock and, if developed by a Council, the Council shall submit such recommendations to the Secretary; and

“(B) develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in the fishery and rebuild the affected stocks, taking into account the relative impact of vessels of other nations and vessels of the United States on the relevant stock.”.

(b) **HIGHLY MIGRATORY SPECIES TAGGING RESEARCH.**—Section 304(g)(2) (16 U.S.C. 1854(g)(2)) is amended by striking “(16 U.S.C. 971d)” and inserting “(16 U.S.C. 971d), or highly migratory species harvested in a commercial fishery managed by a Council under this Act or the Western and Central Pacific Fisheries Convention Implementation Act.”.

SEC. 107. UNITED STATES CATCH HISTORY.

In establishing catch allocations under international fisheries agreements, the Secretary of Commerce, in consultation with the Secretary of the Department in which the Coast Guard is operating, and the Secretary of State, shall ensure that all catch history in a fishery associated with a vessel of the United States remains with the United States in that fishery, and is not transferred or credited to any other nation or vessel of such nation, including when a vessel of the United States is sold or transferred to a citizen of another nation or to an entity controlled by citizens of another nation.

SEC. 108. SECRETARIAL REPRESENTATIVE FOR INTERNATIONAL FISHERIES.

(a) **IN GENERAL.**—The Secretary of Commerce, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall designate a Senate-confirmed, senior official within the National Oceanic and Atmospheric Administration to perform the duties of the Secretary with respect to international agreements involving fisheries and other living marine resources, including policy development and representation as a U.S. Commissioner, under any such international agreements.

(b) **ADVICE.**—The designated official shall, in consultation with the Deputy Assistant Secretary for International Affairs and the Administrator of the National Marine Fisheries Service, advise the Secretary, Undersecretary of Commerce for Oceans and Atmosphere, and other senior officials of the Department of Commerce and the National Oceanic and Atmospheric Administration on development of policy on international fisheries conservation and management matters.

(c) **CONSULTATION.**—The designated official shall consult with the Senate Committee on Commerce, Science, and Transportation and the House Committee on Resources on matters pertaining to any regional or international negotiation concerning living marine resources, including shellfish, including before initialing any agreement concerning living marine resources or attending any of-

ficial meeting at which management measures will be discussed, and shall otherwise keep the committees informed throughout the negotiation process.

(d) **DELEGATION.**—The designated official may delegate and authorize successive re-delegation of such functions, powers, and duties to such officers and employees of the National Oceanic and Atmospheric Administration as deemed necessary to discharge the responsibility of the Office.

TITLE II—IMPLEMENTATION OF WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Western and Central Pacific Fisheries Convention Implementation Act”.

SEC. 202. DEFINITIONS.

In this title:

(1) **1982 CONVENTION.**—The term “1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) **AGREEMENT.**—The term “Agreement” means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

(3) **COMMISSION.**—The term “Commission” means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with this Convention.

(4) **CONVENTION AREA.**—The term “convention area” means all waters of the Pacific Ocean bounded to the south and to the east by the following line:

From the south coast of Australia due south along the 141st meridian of east longitude to its intersection with the 55th parallel of south latitude; thence due east along the 55th parallel of south latitude to its intersection with the 150th meridian of east longitude; thence due south along the 150th meridian of east longitude to its intersection with the 60th parallel of south latitude; thence due east along the 60th parallel of south latitude to its intersection with the 130th meridian of west longitude; thence due north along the 130th meridian of west longitude to its intersection with the 4th parallel of south latitude; thence due west along the 4th parallel of south latitude to its intersection with the 150th meridian of west longitude; thence due north along the 150th meridian of west longitude.

(5) **EXCLUSIVE ECONOMIC ZONE.**—The term “exclusive economic zone” means the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983.

(6) **FISHING.**—The term “fishing” means:

(A) searching for, catching, taking, or harvesting fish.

(B) attempting to search for, catch, take, or harvest fish.

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose.

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons.

(E) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (A) through (D), including transshipment.

(F) use of any other vessel, vehicle, aircraft, or hovercraft, for any activity described in subparagraphs (A) through (E) except for emergencies involving the health and safety of the crew or the safety of a vessel.

(7) **FISHING VESSEL.**—The term “fishing vessel” means any vessel used or intended

for use for the purpose of fishing, including support ships, carrier vessels, and any other vessel directly involved in such fishing operations.

(8) **HIGHLY MIGRATORY FISH STOCKS.**—The term “highly migratory fish stocks” means all fish stocks of the species listed in Annex 1 of the 1982 Convention occurring in the Convention Area, and such other species of fish as the Commission may determine.

(9) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

(10) **STATE.**—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(11) **TRANSHIPMENT.**—The term “transshipment” means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in port.

(12) **WCPCF CONVENTION; WESTERN AND CENTRAL PACIFIC CONVENTION.**—The terms “WCPCF Convention” and “Western and Central Pacific Convention” means the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, with Annexes, which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

SEC. 203. APPOINTMENT OF UNITED STATES COMMISSIONERS.

(a) **IN GENERAL.**—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the Western and Central Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, and one of whom shall be a member of either the Pacific Fishery Management Council or Western Pacific Fishery Management Council. Each appointment shall coordinate with the other Council to ensure that the jurisdictional concerns of both Councils are addressed. The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among members who are officers or employees of the United States Government.

(b) **ALTERNATE COMMISSIONERS.**—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to subsection (d), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) **ADMINISTRATIVE MATTERS.**—

(1) **EMPLOYMENT STATUS.**—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

(A) injury compensation under chapter 81 of title 5, United States Code;

(B) tort claims liability as provided under chapter 171 of title 28 United States Code;

(C) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

(D) any other criminal or civil statute or regulation governing the conduct of Federal employees.

(2) **COMPENSATION.**—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(3) **TRAVEL EXPENSES.**—

(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) The Secretary of Commerce may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(d) **ADVISORY COMMITTEES.**—

(1) **ESTABLISHMENT OF PERMANENT ADVISORY COMMITTEE.**—

(A) **MEMBERSHIP.**—There is established an advisory committee that shall be composed of—

(i) not less than 15 nor more than 20 individuals appointed by the United States Commissioners appointed under section 203, who shall select such individuals from the various groups concerned with the fisheries covered by the WCPFC Convention, providing, to the maximum extent practicable, an equitable balance among such groups;

(ii) the chairs of the Pacific Fishery Management Council and the Western Pacific Fishery Management Council's fishing industry Advisory Committees or such a chair's designee; and

(iii) officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).

(B) **TERMS AND PRIVILEGES.**—Each member of the advisory committee appointed under subparagraph (A) shall serve for a term of 2 years and shall be eligible for reappointment. Members of the advisory committee may attend all public meetings of the Commission, Council, or any Panel to which they are invited by the Commission, Council, or any Panel. The advisory committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

(C) **PROCEDURES.**—The advisory committee established by subparagraph (A) shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion, and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(D) **PROVISION OF INFORMATION.**—The Secretary and the Secretary of State shall furnish the advisory committee with relevant

information concerning fisheries and international fishery agreements.

(2) **ADMINISTRATIVE MATTERS.**—

(A) **SUPPORT SERVICES.**—The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.

(B) **COMPENSATION; STATUS; EXPENSES.**—Individuals appointed to serve as a member of an advisory committee—

(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

(ii) shall not be considered Federal employees by reason of their service as members of an advisory committee, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(e) **MEMORANDUM OF UNDERSTANDING.**—For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that specifies the role of the relevant Council or Councils with respect to—

(1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations;

(2) providing formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species;

(3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organization, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

SEC. 204. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF STATE.

The Secretary of State may—

(1) receive and transmit, on behalf of the United States, reports, requests, recommendations, proposals, decisions, and other communications of and to the Commission;

(2) in consultation with the Secretary of Commerce and the United States Commissioners, approve, disapprove, object to, or withdraw objections to bylaws and rules, or amendments thereof, adopted by the WCPFC Commission, and, with the concurrence of the Secretary of Commerce to approve or disapprove the general annual program of the WCPFC Commission with respect to conservation and management measures and other measures proposed or adopted in accordance with the WCPFC Convention; and

(3) act upon, or refer to other appropriate authority, any communication referred to in paragraph (1).

SEC. 205. RULEMAKING AUTHORITY OF THE SECRETARY OF COMMERCE.

(a) **PROMULGATION OF REGULATIONS.**—The Secretary of Commerce, in consultation with the Secretary of State and, with respect to enforcement measures, the Secretary of the department in which the Coast Guard is operating, is authorized to promulgate such regulations as may be necessary to carry out

the United States international obligations under the WCPFC Convention and this title, including recommendations and decisions adopted by the Commission. In cases where the Secretary of Commerce has discretion in the implementation of one or more measures adopted by the Commission that would govern fisheries under the authority of a Regional Fishery Management Council, the Secretary may, to the extent practicable within the implementation schedule of the WCPFC Convention and any recommendations and decisions adopted by the Commission, promulgate such regulations in accordance with the procedures established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) **ADDITIONS TO FISHERY REGIMES AND REGULATIONS.**—The Secretary of Commerce may promulgate regulations under this title applicable to all vessels and persons subject to the jurisdiction of the United States, including United States flag vessels wherever they may be operating, on such date as the Secretary shall prescribe.

SEC. 206. ENFORCEMENT.

(a) **IN GENERAL.**—The Secretary of Commerce may—

(1) administer and enforce this title and any regulations issued under this title, except to the extent otherwise provided for in this Act;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in—

(A) the administration and enforcement of this title; and

(B) the conduct of scientific, research, and other programs under this title;

(3) conduct fishing operations and biological experiments for purposes of scientific investigation or other purposes necessary to implement the WCPFC Convention;

(4) collect, utilize, and disclose such information as may be necessary to implement the WCPFC Convention, subject to sections 552 and 552a of title 5, United States Code, and section 402(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(b));

(5) if recommended by the United States Commissioners or proposed by a Council with authority over the relevant fishery, assess and collect fees, not to exceed three percent of the ex-vessel value of fish harvested by vessels of the United States in fisheries managed pursuant to this title, to recover the actual costs to the United States of management and enforcement under this title, which shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Secretary under this title; and

(6) issue permits to owners and operators of United States vessels to fish in the convention area seaward of the United States Exclusive Economic Zone, under such terms and conditions as the Secretary may prescribe, and shall remain valid for a period to be determined by the Secretary.

(b) **CONSISTENCY WITH OTHER LAWS.**—The Secretary shall ensure the consistency, to the extent practicable, of fishery management programs administered under this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the Tuna Conventions Act (16 U.S.C. 951 et seq.), the South Pacific Tuna Act (16 U.S.C. 973 et seq.), section 401 of Public Law 108-219 (16 U.S.C. 1821 note) (relating to Pacific albacore tuna), and the Atlantic Tunas Convention Act (16 U.S.C. 971).

(c) **ACTIONS BY THE SECRETARY.**—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction,

powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.

(d) CONFIDENTIALITY.—

(1) IN GENERAL.—Any information submitted to the Secretary in compliance with any requirement under this Act shall be confidential and shall not be disclosed, except—

(A) to Federal employees who are responsible for administering, implementing, and enforcing this Act;

(B) to the Commission, in accordance with requirements in the Convention and decisions of the Commission, and, insofar as possible, in accordance with an agreement with the Commission that prevents public disclosure of the identity or business of any person;

(C) to State or Marine Fisheries Commission employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

(D) when required by court order; or

(E) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act.

(2) USE OF INFORMATION.—The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form that does not directly or indirectly disclose the identity or business of any person. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary of any information submitted in compliance with any requirement or regulation under this Act.

SEC. 207. PROHIBITED ACTS.

(a) IN GENERAL.—It is unlawful for any person—

(1) to violate any provision of this title or any regulation or permit issued pursuant to this title;

(2) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, or an applicable permit issued pursuant to this title;

(3) to refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for the purposes of conducting any search, investigation, or inspection in connection with the enforcement of this title or any regulation, permit, or the Convention;

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search, investigations, or inspection in connection with the enforcement of this title or any regulation, permit, or the Convention;

(5) to resist a lawful arrest for any act prohibited by this title;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or

retained in violation of this title or any regulation, permit, or agreement referred to in paragraph (1) or (2);

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any chapter prohibited by this section;

(8) to knowingly and willfully submit to the Secretary false information (including false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishery vessels of the United States), regarding any matter that the Secretary is considering in the course of carrying out this title;

(9) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer on a vessel under this title, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this title;

(10) to engage in fishing in violation of any regulation adopted pursuant to section 206(a) of this title;

(11) to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations;

(12) to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this title to be made, kept, or furnished;

(13) to fail to stop a vessel upon being hailed and instructed to stop by a duly authorized official of the United States;

(14) to import, in violation of any regulation adopted pursuant to section 206(a) of this title, any fish in any form of those species subject to regulation pursuant to a recommendation, resolution, or decision of the Commission, or any tuna in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 206(a) of this title.

(b) ENTRY CERTIFICATION.—In the case of any fish described in subsection (a) offered for entry into the United States, the Secretary of Commerce shall require proof satisfactory to the Secretary that such fish is not ineligible for such entry under the terms of section 206(a) of this title.

SEC. 208. COOPERATION IN CARRYING OUT CONVENTION.

(a) FEDERAL AND STATE AGENCIES; PRIVATE INSTITUTIONS AND ORGANIZATIONS.—The Secretary of Commerce may cooperate with agencies of the United States government, any public or private institutions or organizations within the United States or abroad, and, through the Secretary of State, the duly authorized officials of the government of any party to the WCPFC Convention, in carrying out responsibilities under this title.

(b) SCIENTIFIC AND OTHER PROGRAMS; FACILITIES AND PERSONNEL.—All Federal agencies are authorized, upon the request of the Secretary of Commerce, to cooperate in the conduct of scientific and other programs and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the WCPFC Convention.

(c) SANCTIONED FISHING OPERATIONS AND FISHERIES EXPERIMENTS.—Nothing in this title, or in the laws or regulations of any State, prevents the Secretary or the Commission from—

(1) conducting or authorizing the conduct of fishing operations and fisheries experiments at any time for purposes of scientific investigation; or

(2) discharging any other duties prescribed by the WCPFC Convention.

(d) STATE JURISDICTION NOT AFFECTED.—Except as provided in subsection (e) of this section, nothing in this title shall be construed to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(e) APPLICATION OF REGULATIONS.—

(1) IN GENERAL.—regulations promulgated under section 206(a) of this title shall apply within the boundaries of any State bordering on the Convention area if the Secretary has provided notice to such State, the State does not request an agency hearing, and the Secretary determines that the State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this title, enacted laws or promulgated regulations that implement the recommendations of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations that implement the recommendations of the commission within the boundaries of such State that—

(i) are less restrictive than the regulations promulgated under section 206(a) of this title; or

(ii) are not effectively enforced.

(2) DETERMINATION BY SECRETARY.—The regulations promulgated pursuant to section 206(a) of this title shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures that are not less restrictive than the regulations promulgated under section 206(a) of this title.

(3) HEARING.—If a State requests a formal agency hearing, the Secretary shall not apply the regulations promulgated pursuant section 206(a) of this title within that State's boundaries unless the hearing record supports a determination under paragraph (1)(A) or (B).

(f) REVIEW OF STATE LAWS AND REGULATIONS.—To ensure that the purposes of subsection (e) are carried out, the Secretary of Commerce shall undertake a continuing review of the laws and regulations of all States to which subsection (e) applies or may apply and the extent to which such laws and regulations are enforced.

SEC. 209. TERRITORIAL PARTICIPATION.

The Secretary of State shall ensure participation in the Commission and its subsidiary bodies by American Samoa, Guam, and the Northern Mariana Islands to the same extent provided to the territories of other nations.

SEC. 210. EXCLUSIVE ECONOMIC ZONE NOTIFICATION.

Masters of commercial fishing vessels of nations fishing for species under the management authority of the Western and Central Pacific Fisheries Convention that do not carry vessel monitoring systems capable of communicating with United States enforcement authorities shall, prior to, or as soon as reasonably possible after, entering and transiting the Exclusive Economic Zone seaward of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area—

(1) notify the Coast Guard or the National Marine Fisheries Service Office of Law Enforcement in the appropriate region of the name, flag state, location, route, and destination of the vessel and of the circumstances under which it will enter United States waters;

(2) ensure that all fishing gear on board the vessel is stowed below deck or otherwise removed from the place where it is normally used for fishing and placed where it is not readily available for fishing; and

(3) if requested by an enforcement officer, proceed to a specified location so that a vessel inspection can be conducted.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of Commerce \$1,000,000 for each of the fiscal years 2007 through 2012 to carry out this title and to pay the United States' contribution to the Commission under section 5 of part III of the WCPFC Convention.

TITLE III—PACIFIC WHITING**SEC. 301. SHORT TITLE.**

This title may be cited as the "Pacific Whiting Act of 2006".

SEC. 302. DEFINITIONS.

In this title:

(1) **ADVISORY PANEL.**—The term "advisory panel" means the Advisory Panel on Pacific Hake/Whiting established by the Agreement.

(2) **AGREEMENT.**—The term "Agreement" means the Agreement between the Government of the United States and the Government of Canada on Pacific Hake/Whiting, signed at Seattle, Washington, on November 21, 2003.

(3) **CATCH.**—The term "catch" means all fishery removals from the offshore whiting resource, including landings, discards, and bycatch in other fisheries.

(4) **JOINT MANAGEMENT COMMITTEE.**—The term "joint management committee" means the joint management committee established by the Agreement.

(5) **JOINT TECHNICAL COMMITTEE.**—The term "joint technical committee" means the joint technical committee established by the Agreement.

(6) **OFFSHORE WHITING RESOURCE.**—The term "offshore whiting resource" means the transboundary stock of *Merluccius productus* that is located in the offshore waters of the United States and Canada except in Puget Sound and the Strait of Georgia.

(7) **SCIENTIFIC REVIEW GROUP.**—The term "scientific review group" means the scientific review group established by the Agreement.

(8) **SECRETARY.**—The term "Secretary" means the Secretary of Commerce.

(9) **UNITED STATES SECTION.**—The term "United States Section" means the United States representatives on the joint management committee.

SEC. 303. UNITED STATES REPRESENTATION ON JOINT MANAGEMENT COMMITTEE.

(a) **REPRESENTATIVES.**—

(1) **IN GENERAL.**—The Secretary, in consultation with the Secretary of State, shall appoint 4 individuals to represent the United States as the United States Section on the joint management committee. In making the appointments, the Secretary shall select representatives from among individuals who are knowledgeable or experienced concerning the offshore whiting resource. Of these—

(A) 1 shall be an official of the National Oceanic and Atmospheric Administration;

(B) 1 shall be a member of the Pacific Fishery Management Council, appointed with consideration given to any recommendation provided by that Council;

(C) 1 shall be appointed from a list submitted by the treaty Indian tribes with treaty fishing rights to the offshore whiting resource; and

(D) 1 shall be appointed from the commercial sector of the whiting fishing industry concerned with the offshore whiting resource.

(2) **TERM OF OFFICE.**—Each representative appointed under paragraph (1) shall be appointed for a term not to exceed 4 years, except that, of the initial appointments, 2 representatives shall be appointed for terms of 2 years. Any individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term. A representative may be ap-

pointed for a term of less than 4 years if such term is necessary to ensure that the term of office of not more than 2 representatives will expire in any single year. An individual appointed to serve as a representative is eligible for reappointment.

(3) **CHAIR.**—Unless otherwise agreed by all of the 4 representatives, the chair shall rotate annually among the 4 members, with the order of rotation determined by lot at the first meeting.

(b) **ALTERNATE REPRESENTATIVES.**—The Secretary, in consultation with the Secretary of State, may designate alternate representatives of the United States to serve on the joint management committee. An alternate representative may exercise, at any meeting of the committee, all the powers and duties of a representative in the absence of a duly designated representative for whatever reason.

SEC. 304. UNITED STATES REPRESENTATION ON THE SCIENTIFIC REVIEW GROUP.

(a) **IN GENERAL.**—The Secretary, in consultation with the Secretary of State, shall appoint no more than 2 scientific experts to serve on the scientific review group. An individual shall not be eligible to serve on the scientific review group while serving on the joint technical committee.

(b) **TERM.**—An individual appointed under subsection (a) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of a term of office of that individual's predecessor shall be appointed to serve for the remainder of that term.

(c) **JOINT APPOINTMENTS.**—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, may appoint to the scientific review group, from a list of names provided by the advisory panel—

(1) up to 2 independent members of the scientific review group; and

(2) 2 public advisors.

SEC. 305. UNITED STATES REPRESENTATION ON JOINT TECHNICAL COMMITTEE.

(a) **SCIENTIFIC EXPERTS.**—

(1) **IN GENERAL.**—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as scientific experts on the joint technical committee, at least 1 of whom shall be an official of the National Oceanic and Atmospheric Administration.

(2) **TERM OF OFFICE.**—An individual appointed under paragraph (1) shall be appointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

(b) **INDEPENDENT MEMBER.**—In addition to individuals appointed under subsection (a), the Secretary, jointly with the Government of Canada, shall appoint 1 independent member to the joint technical committee selected from a list of names provided by the advisory panel.

SEC. 306. UNITED STATES REPRESENTATION ON ADVISORY PANEL.

(a) **IN GENERAL.**—

(1) **APPOINTMENT.**—The Secretary, in consultation with the Secretary of State, shall appoint at least 6 but not more than 12 individuals to serve as members of the advisory panel, selected from among individuals who are—

(A) knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore whiting resource; and

(B) not employees of the United States.

(2) **TERM OF OFFICE.**—An individual appointed under paragraph (1) shall be ap-

pointed for a term of not to exceed 4 years, but shall be eligible for reappointment. An individual appointed to fill a vacancy occurring prior to the expiration of the term of office of that individual's predecessor shall be appointed for the remainder of that term.

SEC. 307. RESPONSIBILITIES OF THE SECRETARY.

(a) **IN GENERAL.**—The Secretary is responsible for carrying out the Agreement and this title, including the authority, to be exercised in consultation with the Secretary of State, to accept or reject, on behalf of the United States, recommendations made by the joint management committee.

(b) **REGULATIONS; COOPERATION WITH CANADIAN OFFICIALS.**—In exercising responsibilities under this title, the Secretary—

(1) may promulgate such regulations as may be necessary to carry out the purposes and objectives of the Agreement and this title; and

(2) with the concurrence of the Secretary of State, may cooperate with officials of the Canadian Government duly authorized to carry out the Agreement.

SEC. 308. RULEMAKING.

(a) **APPLICATION WITH MAGNUSON-STEVENS ACT.**—The Secretary shall establish the United States catch level for Pacific whiting according to the standards and procedures of the Agreement and this title rather than under the standards and procedures of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), except to the extent necessary to address the rebuilding needs of other species. Except for establishing the catch level, all other aspects of Pacific whiting management shall be—

(1) subject to the Magnuson-Stevens Fishery Conservation and Management Act; and

(2) consistent with this title.

(b) **JOINT MANAGEMENT COMMITTEE RECOMMENDATIONS.**—For any year in which both parties to the Agreement approve recommendations made by the joint management committee with respect to the catch level, the Secretary shall implement the approved recommendations. Any regulation promulgated by the Secretary to implement any such recommendation shall apply, as necessary, to all persons and all vessels subject to the jurisdiction of the United States wherever located.

(c) **YEARS WITH NO APPROVED CATCH RECOMMENDATIONS.**—If the parties to the Agreement do not approve the joint management committee's recommendation with respect to the catch level for any year, the Secretary shall establish the total allowable catch for Pacific whiting for the United States catch. In establishing the total allowable catch under this subsection, the Secretary shall—

(1) take into account any recommendations from the Pacific Fishery Management Council, the joint management committee, the joint technical committee, the scientific review group, and the advisory panel;

(2) base the total allowable catch on the best scientific information available;

(3) use the default harvest rate set out in paragraph 1 of Article III of the Agreement unless the Secretary determines that the scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource; and

(4) establish the United State's share of the total allowable catch based on paragraph 2 of Article III of the Agreement and make any adjustments necessary under section 5 of Article II of the Agreement.

SEC. 309. ADMINISTRATIVE MATTERS.

(a) **EMPLOYMENT STATUS.**—Individuals serving as such Commissioners, other than officers or employees of the United States Government, shall be considered to be Federal employees while performing such service, only for purposes of—

(1) injury compensation under chapter 81 of title 5, United States Code;

(2) tort claims liability as provided under chapter 171 of title 28 United States Code;

(3) requirements concerning ethics, conflicts of interest, and corruption as provided under title 18, United States Code; and

(4) any other criminal or civil statute or regulation governing the conduct of Federal employees.

(b) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual appointed under this title shall receive no compensation for the individual's service as a representative, alternate representative, scientific expert, or advisory panel member under this title.

(2) SCIENTIFIC REVIEW GROUP.—Notwithstanding paragraph (1), the Secretary may employ and fix the compensation of an individual appointed under section 304(a) to serve as a scientific expert on the scientific review group who is not employed by the United States government, a State government, or an Indian tribal government in accordance with section 3109 of title 5, United States Code.

(c) TRAVEL EXPENSES.—Except as provided in subsection (d), the Secretary shall pay the necessary travel expenses of individuals appointed under this title in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(d) JOINT APPOINTEES.—With respect to the 2 independent members of the scientific review group and the 2 public advisors to the scientific review group jointly appointed under section 304(c), and the 1 independent member to the joint technical committee jointly appointed under section 305(b), the Secretary may pay up to 50 percent of—

(1) any compensation paid to such individuals; and

(2) the necessary travel expenses of such individuals.

SEC. 310. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may—

(1) administer and enforce this title and any regulations issued under this title;

(2) request and utilize on a reimbursed or non-reimbursed basis the assistance, services, personnel, equipment, and facilities of other Federal departments and agencies in the administration and enforcement of this title; and

(3) collect, utilize, and disclose such information as may be necessary to implement the Agreement and this title, subject to sections 552 and 552a of title 5, United States Code.

(b) PROHIBITED ACTS.—It is unlawful for any person to violate any provision of this title or the regulations promulgated under this title.

(c) ACTIONS BY THE SECRETARY.—The Secretary shall prevent any person from violating this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857) were incorporated into and made a part of this title. Any person that violates any provision of this title is subject to the penalties and entitled to the privileges and immunities provided in the Magnuson-Stevens Fishery Conservation and Management Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of that Act were incorporated into and made a part of this title.

(d) PENALTIES.—This title shall be enforced by the Secretary as if a violation of this title or of any regulation promulgated by the Secretary under this title were a violation of

section 307 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857).

SEC. 311. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary \$1,000,000 for each of the fiscal years 2007 through 2012 to carry out the obligations of the United States under the Agreement and this title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico (Mr. PEARCE) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from New Mexico.

Mr. PEARCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5946 is an important tool for the United States to use to take action against those vessels that participate in illegal, unreported, and unregulated fishing practices. This legislation is vitally important for the health of the world's fishery resources and for the economic well-being of the U.S. high seas and domestic fishing fleets. The provisions in H.R. 5946 have already been passed the Senate by unanimous consent as a part of S. 2012.

□ 2245

I will submit into the RECORD an exchange of letters with Chairman THOMAS of the Committee on Ways and Means on the bill, and I thank him for his cooperation.

I urge an "aye" vote on H.R. 5946.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 20, 2006.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources,
Longworth House Office Building,
Washington, DC.

DEAR CHAIRMAN POMBO: Thank you for your letter regarding H.R. 5946, the "Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006," which was introduced on July 27, 2006.

As you noted, the Committee on Ways and Means maintains jurisdiction over trade sanctions. H.R. 5946 includes text which falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this bill for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I appreciate your cooperation in this matter and agree to your offer to include this exchange of letters in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, September 20, 2006.

Hon. WILLIAM M. THOMAS,
Chairman, Committee on Ways and Means,
Longworth HOB, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to request your cooperation in scheduling H.R. 5946, the Stevens-Inouye International Fisheries Monitoring and Compliance Legacy Act of 2006, for action by the House of Representatives before adjournment of the 109th Congress. This bill, of which I am the author,

amends the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes. While the bill was referred solely to the Committee on Resources, Title I of the bill references trade sanctions from the High Seas Driftnet Fisheries Enforcement Act, and I believe the Committee on Ways and Means has a jurisdictional interest in these provisions. They are taken almost verbatim from S. 2012, a bill reauthorizing the Magnuson-Stevens Fishery Conservation and Management Act, which is currently at the Speaker's desk and which I understand may pose Constitutional issues because of their origination in the Senate.

I recognize that this action would not be considered as precedent for any future referrals of similar measures or seen as affecting your Committee's jurisdiction over the subject matter of the bill. Moreover, if the bill is conferenced with the Senate, I would support naming Ways and Means Committee members to the conference committee. I would also be pleased to include this letter and your response in the Congressional Record during debate on H.R. 5946 on the House Floor.

Thank you for your assistance with this measure, and many others during your distinguished tenure as Chairman of the Ways and Means Committee. Angela Ellard and Steven Schrage of your staff have been particularly helpful, and we appreciate your efforts, as well as theirs in this regard.

Sincerely,

RICHARD W. POMBO,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

(Mr. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. Mr. Speaker, we have no objection to this legislation. In fact, we support it. And I thank the chairman of our subcommittee of the Resources Committee for his support on this. I would encourage adoption and passage of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. PEARCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. PEARCE) that the House suspend the rules and pass the bill, H.R. 5946, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes."

A motion to reconsider was laid on the table.